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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,814	03/30/2006	Dickory Rudduck	PA020/CL 14466	1786
57346	7590	05/11/2009		
TELEZYGOLOGY, INC. 520 W. ERIE STREET, SUITE 210 CHICAGO, IL 60654			EXAMINER CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	
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			05/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,814	Applicant(s) RUDDUCK ET AL.	
	Examiner Eric Culbreth	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) 40-78 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 32-37 is/are rejected.
- 7) ☒ Claim(s) 7-31, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/1/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 40-78 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/26/09.
2. Although claims 40-78 are withdrawn as requested by applicant, this would not appear to be consistent with the restriction requirement of 12/24/08; it is suggested that applicant carefully review the restriction. For instance, claims 75-78 are not listed in the elected or withdrawn claims by applicant.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
It does not identify the citizenship of each inventor.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

(This refers to inventor Hort.)

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the microswitches (claim 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because legal phraseology such as "means" should not be used. Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities:

- a. On page 10, line 22 "14" should be "12" (note page 11, line 22).
- b. On page 11, line 4 "that" should be "than".
- c. On page 12, line 12 "hold" should be "holds".

Appropriate correction is required.

Claim Objections

7. Claims 6-31 and 38-39 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-5 and 32-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Page 12, lines 21-27 are not clear (what holds head 58 on the fastener).

Generally, it is not clear how the embodiment of Figure 4 works.

It is not clear from the disclosure what brace 134 is or what it is for.

Generally it is not clear how the embodiment of Figure 13 works or how the embodiment of Figures 16-18 work.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 1 as best understood is rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al US006508437B1 (of record).

Davis et al discloses a fastener for releasably securing first element 16 to a second element 12 comprising locking pin 26 movable between a locked lowered position in which the first element is secured in spaced relationship to the second element and a released position in which the first element is released from the second element. Locking pin 26 has an engageable head. Means (the portions of element 12 adjacent pin 26) engage the head of the pin with the second element 12, and bias

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means 14 (a spring and damper at column 3, lines 40-43) urge the locking in to the release position. Actuator 20 including a shape memory alloy is adapted to elongate upon application of appropriate energy to move the pin to the release position.

12. Claims 32 and 36/32 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by UK 2,166,185 (cited by applicant).

UK '185 discloses a fastener assembly for releasably securing an element 12, the element including a pin or post 1 having a groove 4, and the assembly including a bar 3 adapted to engage the groove. The assembly also includes a connecting means 5 attached to the bar and including memory shape material which, upon application of suitable energy, is adapted to change shape and draw the bar out of engagement with the element, thus releasing the element (claim 32). Regarding claim 36/32, member 5 is a thin strip or wire.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claim 5/1 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Davis et al to include the pin being made of polymeric material, as it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice (In re Leshin, 125 USPQ 416).

16. Claims 33-36/33-36 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over UK '185.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify UK '185 so that the element has at least two bars engaging grooves in more post, as case law has held that it is obvious to multiply parts for an increased effect (stronger connection, for instance) (St. Regis Paper Co. v Bemis Co., Inc., 193 USPQ 8, 11 (7th Cir. 1977)).

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17. Claim 37 as best understood is rejected under 35 U.S.C. 103(a) as being unpatentable over UK '185.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify UK '185 so that the strip or wire is titanium-nickel , as it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice.

Allowable Subject Matter

18. Claims 2-5/2-4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric Culbreth
Primary Examiner
Art Unit 3616

/Eric Culbreth/
Primary Examiner, Art Unit 3616